

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of IAN GRIMSLEY and JOSIE  
GRIMSLEY, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

BRIAN KEITH GRIMSLEY,

Respondent-Appellant.

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UNPUBLISHED

October 27, 2005

No. 260217

Genesee Circuit Court

Family Division

LC No. 03-116511-NA

Before: Talbot, P.J., and White and Wilder, JJ.

MEMORANDUM.

Respondent appeals as of right from the order terminating his parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(i), (h), (k)(ii), and (n)(iii). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The petition alleged that respondent sexually abused his young daughter and was incarcerated in Ohio for the sexual battery of his fifteen-year-old stepdaughter. Because of his out-of-state incarceration, respondent was not able to attend any of the hearings in this matter but did participate by telephone. Respondent contends that, because he could not hear all the testimony or attorney comments during the hearings, his due process rights were violated. We disagree. Although respondent could not always hear what was being said or testified to at the various hearings, the court took action to resolve this problem by allowing attorneys and witnesses to repeat themselves. In addition, respondent was assisted by an attorney who was physically present at these hearings. Consequently, respondent's due process rights were protected.

The trial court also did not clearly err in determining that statutory grounds for termination of respondent's parental rights were established by clear and convincing evidence MCR 3.977(J); *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Although respondent's daughter initially denied that her father sexually abused her, she subsequently told Dawn McComb, the caseworker, and Carolyn Sims, of the Consortium Against Child Abuse and Neglect, that she had watched "nasty" movies with respondent and that he had penetrated her. Dr. Edwin Gullekson testified that there were irregularities in the child's hymen, which could be consistent with sexual abuse. Respondent had been convicted in Ohio of sexual battery against

his stepdaughter, and we agree with the trial court's finding that continuing the parent-child relationship would be harmful to these children because "the conviction derived from the same conduct as alleged in FIA's petition." Further, although respondent testified in 2004 that he would be eligible to apply for release in another two years, there was no guarantee that his eight-year sentence would be shortened and, upon, release, he would need to find employment and housing before he could work toward reunification with his children.

Finally, the evidence does not show that termination of respondent's parental rights was not in the children's best interests. MCL 712A.19b(5). These children needed some stability, which respondent was not able to provide for them at the time of the trial or in the near future.

Affirmed.

/s/ Michael J. Talbot  
/s/ Helene N. White  
/s/ Kurtis T. Wilder